

Image RCE



Attorney Docket No. 48194-CPA (70342)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Fujino, Masahiko

Application No.: 09/257,650

Group No.: 1646

Filed: February 25, 1999

Examiner: O'Hara, Eileen B.

For: USE AND SCREENING METHOD FOR AN ABERRANT GENE PRODUCT OPERATING SUBSTANCE

MAIL STOP RCE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REQUEST FOR CONTINUED EXAMINATION (RCE)
(37 C.F.R. 1.114)

1. Applicant hereby requests continued examination, in accordance with 37 C.F.R. Section 1.114, for the above identified application.

CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) AND 1.10

(When using Express Mail, the Express Mail label number is *mandatory*;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

[X] deposited with the United States Postal Service in an envelope addressed to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. Section 1.8(a)

37 C.F.R. Section 1.10

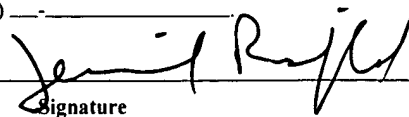
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[] facsimile transmitted to the Patent and Trademark Office (703) _____

Date: 12/03/03


Signature

Jennifer K. Rosenfield (Reg. No. 53,531)

12/08/2003 AWONDAF1 00000063 09257650

01 FC:1801
02 FC:1253

770.00 OP
530.00 OP

(Request for Continued Examination (RCE))--page 1 of 6)

(type or print name of person certifying)

WARNING: 35 U.S.C. 132(b) and Section 1.114 provide for the continued examination of an application and **not** examination of a continuing application). Accordingly, the Office will not permit an applicant to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

WARNING: A continued examination request **cannot** be made if at least one office action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 161 has not been mailed. The provisions of 37 C.F.R. 1.114 also do not apply (1) to a provisional application, an application for a utility or plant patent filed under 35 U.S.C. 111(a); (2) an international application filed under 35 U.S.C. 363 before June 8, 1995; (3) a patent under reexamination; or (4) an application for a design patent. 37 C.F.R. Section 1.114(d).

NOTE: There is no limit to the number of times the fee for continued examination may be submitted. Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

NOTE: Unlike a continuation application, a continued examination request **can** utilize the mailing procedure of 37 C.F.R. 1.8. See 37 C.F.R. Section 1.8(a)(2)(i)(A).

TIME REQUEST IS BEING MADE

2. This request is being submitted (*check appropriate item(s) below*):

- i. ☒ Prior to abandonment of the application
- ii. ☐ Payment of the issue fee
 - ☐ Prior to payment of issue fee
 - ☐ Issue fee has been paid but a petition under Section 1.313 has been filed herewith
- iii. ☐ Prior to a decision on appeal to the Board of Patent Appeals & Interferences
 - ☐ A notice is being separately sent to the Board of Patent Appeals & Interferences that this Request for Continued Examination is being filed.

NOTE: If such a notice is not sent to the Board, they may refuse to vacate a decision rendered after the filing of the RCE but before recognition by the Office of the RCE request under Section 1.114.

- iv. ☐ Appeal to the U.S. Court of Appeals of the Federal Circuit under 35 U.S.C. 145 or ☐ Commencement of a civil action under 35 U.S.C. 146
 - ☐ Prior to the filing of such appeal or commencement of civil action
 - ☐ Such appeal or commencement of civil action has been terminated

ENCLOSURES

3. Enclosed herewith is/are:

WARNING: If reply to a final or non-final Office action under 35 U.S.C. 132 is outstanding, the submission must meet the reply requirements of Section 1.111. 37 C.F.R. Section 1.114(b).

- ☐ An information disclosure (37 C.F.R. Section 1.98)

[] Form PTO-1449 (PTO/SB/08A and 08B)

[X] A Response – Amendment and Response to Final Office Action

[] New arguments

[] New evidence in support of patentability

[] Other:

FEE FOR REQUEST (37 C.F.R. Section 1.17(e)).

4. This application is on behalf of:

[] Small entity (and status is still as small entity) \$ 375.00

[X] Other than a small entity \$770.00

Continued Prosecution Request Fee \$ 770.00

FEE FOR CLAIMS

NOTE: "The fee for continued examination under Section 1.114 (Section 1.17(e)) does not include additional claims fee (cf. 1.53 (d)(3)(ii))." See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.

37 C.F.R. 1.53(d)(3) : "The filing fee for a continued prosecution application filed under this paragraph is:

(i) The basic filing fee as set forth in Section 1.16; and

(ii) Any additional Section 1.16 fee due based on the number of claims remaining in the application after entry of any amendment accompanying the request for an application under this paragraph and entry of any amendments under Section 1.116 unentered in the prior application which applicant has requested to be entered in the continued prosecution application."

5. The fee for claims (37 C.F.R. Section 1.16(b)-(d)) has been calculated as shown below:

(Col.1)		(Col. 2)	(Col. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY		
Claims Remaining After Amendment			Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee	OR	Addit. Fee
Total	* Minus		**	=	x \$9 =	\$		x \$18 = \$
Indep.	* Minus		***	= 0	x \$39 =	\$		x \$84 = \$ 0
[] First Presentation of Multiple Dependent Claim					+ \$130 =	\$		+ \$280 = \$ 0
					Total Addit. Fee	\$	OR	Total Addit. Fee \$

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3,

** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

WARNING: See 37 C.F.R. Section 1.116.

(complete (c) or (d), as applicable)

(c) ☒ No additional fee is required.

OR

(d) ☐ Total additional fee required is \$ _____.

EXTENSION OF TIME

(If an extension of time is appropriate complete (a) or (b), as applicable)

6. The proceedings herein are for a patent application, and the provisions of 37 C.F.R. Section 1.136(a) apply.

(a) ☒ Applicant petitions for an extension of time, the fees for which are set out in 37 C.F.R. Section 1.17(a)(1)-(4), for the total number of months checked below:

Extension for <u>(months)</u>	Fee for other than <u>small entity</u>	Fee for <u>small entity</u>
<input type="checkbox"/> one month	\$110.00	\$ 55.00
<input type="checkbox"/> two months	\$420.00	\$210.00
<input checked="" type="checkbox"/> three months	\$950.00	\$475.00
<input type="checkbox"/> four months	\$1,480.00	\$740.00
<input type="checkbox"/> five months	\$2,010.00	\$1,005.00
Fee		\$ <u>\$950.00</u>

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

[X] An extension for two months has already been secured, and the fee paid therefor of \$ 420.00 is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 530.00

OR

(b) ☐ Applicant believes that no extension of time is required. However, this is a conditional petition and authorization to pay the necessary fees to provide for the

possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

TOTAL FEE(S) DUE

WARNING: *The fee for continued examination under Section 1.114 may not be deferred. 37 C.F.R. Section 1.53(f).*

7. The total fee(s) due is/are:

Continued Prosecution Fee (Section 1.17(e))	\$ <u>770.00</u>
Fee(s) for additional claims (if any) (Section 1.16(b)-(d))	\$ _____
Extension of time fee (if any) (Section 1.17(a)(1)-(4))	\$ <u>530.00</u>
Total Fee(s) Due:	\$ <u>1,300.00</u>

PAYMENT OF FEE(S) DUE

8. Please pay the fee(s) for this continued examination application as follows:

<input checked="" type="checkbox"/> Checks are attached for the sum of	\$ <u>1,300.00</u>
<input type="checkbox"/> Charge Account _____ the sum of	\$ _____
<input type="checkbox"/> Charge Credit Card the sum of (Credit Card Payment Form (PTO-2038) attached.)	\$ _____

Please charge any required additional fee(s) for Section 1.17(e), Section 1.16(b)-(d) and/or Section 1.17(a)(1)-(4) to

<input checked="" type="checkbox"/> Account <u>04-1105</u>
<input type="checkbox"/> Credit Card (Credit Card Payment Form (PTO-2038) attached.)


INVENTORSHIP

NOTE: *Any change of inventors must be via the procedure set forth in 37 C.F.R. Section 1.48. See Notice of March 10, 2000, 65 Fed Reg 14865, at 14868.*

9. This application as amended names as inventors:

☒ the same inventors as previously designated for the claims.

- ☐ fewer than the inventors previously designated and a statement accompanies this request for the deletion of the name or names of the person or persons who are not inventors of the invention now being claimed.
- ☐ a person not named previously as an inventor and a petition under 37 C.F.R. Section 1.48 is/has separately:
- ☐ being filed
- ☐ been filed


SIGNATURE OF PRACTITIONER

Reg. No.: 53,531

Jennifer K. Rosenfield
(type or print name of practitioner)

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P.O. Box 9169, Boston, MA 02209
P.O. Address

Customer No.: 21874

356956



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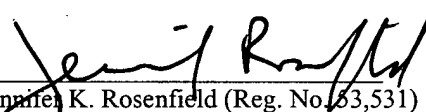
Examiner: O'Hara, Eileen B.

For: USE AND SCREENING METHOD FOR AN ABERRANT GENE PRODUCT
OPERATING SUBSTANCE

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop: RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 3, 2003.

By:


Jennifer K. Rosenfield (Reg. No. 63,531)

Mail Stop: RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, DC 20231

Sir:

AMENDMENT AND RESPONSE TO FINAL OFFICE ACTION

This communication is submitted in response to the Final Office Action dated June 3, 2003. A Request for an appropriate extension of time and a Request for Continued Examination (RCE) are being submitted on even date herewith. Please amend the application as follows.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 8 of this paper.